Office-Supreme Court, U.S.
FILED
MAR 25 1985
ALEXANDER L. STEVAS,
CLERK

No. 84-823

In the Supreme Court of the United States

OCTOBER TERM, 1984

UNITED STATES OF AMERICA, PETITIONER

v.

JOHN DOE NO. 462

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES SUGGESTING MOOTNESS

REX E. LEE
Solicitor General
Department of Justice
Washington, D.C. 20530
(202) 633-2217

TABLE OF AUTHORITIES

Page

Cases:

DeFunis v. *Odegaard*, 416 U.S. 312 2

Great Western Sugar Co. v. *Nelson*, 442 U.S. 92 2

North Carolina v. *Rice*, 404 U.S. 244 2

United States v. *Alaska Steamship Co.*, 253 U.S. 113 2

United States v. *Munsingwear, Inc.*, 340 U.S. 36 2

Constitution:

U.S. Const. :

Amend. V 1

In the Supreme Court of the United States

OCTOBER TERM, 1984

No. 84-823

UNITED STATES OF AMERICA, PETITIONER

v.

JOHN DOE NO. 462

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES SUGGESTING MOOTNESS

This case presents the question whether the Fifth Amendment privilege against compelled self-incrimination protects the contents of an individual's voluntarily prepared financial records. In March 1984, respondent was served with a grand jury subpoena demanding production of approximately a dozen kinds of common financial records. After respondent partially complied with the subpoena and had been granted act-of-production immunity, the district court quashed the subpoena in part, holding that the contents of respondent's personal financial records were protected by the Fifth Amendment privilege. The court of appeals affirmed on the same ground. This Court granted the government's petition for a writ of certiorari to review that holding on January 21, 1985.

On January 9, 1985, respondent was charged in a 48-count indictment with various violations of the federal narcotics, firearms, tax, and currency laws. On March 13, he pleaded guilty to four counts pursuant to a plea agreement. Respondent subsequently turned over to the government the documents sought by the subpoena that is at issue in this case.

As a result of respondent's production of the subpoenaed records, this case presents only a " 'question[ ] that cannot affect the rights of litigants in the case before' " the Court. *DeFunis* v. *Odegaard*, 416 U.S. 312, 316 (1974), quoting *North Carolina* v. *Rice*, 404 U.S. 244, 246 (1971). Accordingly, the case is moot. See *United States* v. *Alaska Steamship Co.*, 253 U.S. 113, 116 (1920). The judgment of the court of appeals should therefore be vacated. See, *e.g.*, *Great Western Sugar Co.* v. *Nelson*, 442 U.S. 92 (1979); *United States* v. *Munsingwear, Inc.*, 340 U.S. 36, 39-41 (1950).

Respectfully submitted.

REX E. LEE
Solicitor General

MARCH 1985

DOJ-1985-03